IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

SUMMONS FOR JUDGMENT NO. 855 OF 2004

IN

SUM. SUIT NO. 3419 OF 2003

Navinchandra H. Trivdi .. Plaintiff.

vs.

M/s. Moby Enterprises. .. Defendants.

Mr. P.M. Shah for plaintiff.

Mr. A.C. Tamhane i/by Tamhane & Co.

for defendant.

CORAM : S.U. KAMDAR, J.

DATE : 4th October, 2005.

P.C.:

. The present suit is filed for the goods sold and delivered. The claim in the suit is for a sum of Rs. 18,21,310/- with interest at the rate of 18% per annum on the principal amount of Rs. 12,38,330.00. It is the contention of the defendants that they have not received the gods in respect of the bills bearing nos.736, 737, 738, 739, 740 and 741. However, the plaintiff has produced the delivery challans duly signed. The signature is

sought to be disputed by the defendant. There is not even a denial of the receipt of the goods at any time prior to the filing of the suit. The plaintiffs have also contended that not only that the goods are sold to the defendant but necessary sales tax is also paid by the plaintiff to the Sales Tax Authority. I am of the opinion that in the present case leave to defendant can be granted to the defendants only on conditions that the defendant deposit a sum of Rs. 8 lacs in this Court. In light of the aforesaid, the defendants are directed to deposit Rs. 8 lacs in this Court within a period of four weeks from today failing which the plaintiff will be entitled to decree as prayed. The amount if so deposited, the Prothonotary and Senior Master is directed to deposit the same in a fixed deposit with any nationalised bank initially for a period of one year and renew the same from time to time till further orders from this Court.

2. Suit transferred to the list of Commercial Causes. Written Statement or points of defence to be filed four weeks from the date of deposit. Affidavits list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on Board of the learned Judge taking Commercial Causes.